

## REMARKS

Claims 1-63 are currently pending in the above-referenced application. Claims 26-63 have been withdrawn from consideration pursuant to a restriction requirement, the propriety of which has been questioned. Claims 1-25 have been considered and stand rejected.

Reconsideration of the above-referenced application is respectfully requested.

### **Rejections under 35 U.S.C. § 112, First Paragraph**

Claims 1-25 stand rejected under 35 U.S.C. § 112, first paragraph, for reciting subject matter that is allegedly not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

The as-filed drawings of an application may be relied upon to provide an adequate written description of claimed subject matter.

Specifically, it has been asserted that the as-filed specification does not provide support for the recitation in independent claim 1 that a detection device is positioned in a cone of collection angles. It is respectfully submitted that the specification of the above-referenced application does provide an adequate written description of positioning a detection device in a cone of collection angles. As a nonlimiting example, Fig. 5 illustrates collection angles as a group of four dashed lines extending from a large area on the surface of a waveguide film 404 to a smaller area on the surface of a lens or other detection element of a detector 502, which is positioned within the cone (or, as illustrated, truncated pyramid) of collection angles represented by the dashed lines. Moreover, one of ordinary skill in the art would understand the meaning of the phrase “cone of collection angles” when referring to optical detection. For example, a camera lens detects, or collects, light in a cone that converges proximate to the camera.

In view of this disclosure, it is respectfully submitted that independent claim 1, as well as claims 2-25 depending therefrom, comply with the written description requirement of the first paragraph of 35 U.S.C. § 112 by reasonably conveying to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In any event, it is proposed that independent claim 1 be amended to replace the recitation that a light detection device be positioned within a cone of collection angles with the recitation that the light detection device be positioned so as to collect light emitted from the surface of a waveguide film, subject matter for which an adequate written description has clearly been provided in the specification and drawings of the above-referenced application.

Accordingly, withdrawal of the 35 U.S.C. § 112, first paragraph, rejections of claims 1-25 is respectfully requested.

**Rejections under 35 U.S.C. § 112, Second Paragraph**

Claims 1-25 have also been rejected under 35 U.S.C. § 112, second paragraph, for reciting subject matter which is allegedly indefinite.

It has been asserted that one of ordinary skill in the art would not readily understand the meaning of a “detection device positioned in a cone of collection angles,” as recited in independent claim 1.

One of ordinary skill in the art would readily understand, from viewing the as-filed drawings of the above-referenced application, what is meant by the recitation, “a . . . detection device positioned in a cone of collection angles,” as the Fig. 5 of the above-referenced application clearly illustrates the placement of a detection device 502 within the collection angles that are illustrated as dashed lines.

Nonetheless, it is proposed that the “cone of collection angles” language be removed from independent claim 1 and replaced with the broader recitation that a light detection device be positioned so as to collect light emitted from the surface of a waveguide film, eliminating any confusion on the Examiner’s part with respect to the current recitation that the detection device be positioned in a cone of collection angles.

It is respectfully submitted that independent claim 1, and claims 2-25 depending therefrom, comply with the definiteness requirement of the second paragraph of 35 U.S.C. § 112. Accordingly, it is respectfully requested that the 35 U.S.C. § 112, second paragraph, rejections of claims 1-25 be withdrawn.

**Restriction Requirement**

Reconsideration and withdrawal of the restriction requirement in the above-referenced application are respectfully requested since claims of Group I and Group II are directed to substantially the same subject matter—apparatus for performing specific binding assays and, further, since the apparatus of the claims of both Group I and Group II include substantially the same elements—a composite waveguide, a light source, and a light detector.

**Entry of Amendment**

Entry of the proposed amendment to independent claim 1 is respectfully requested. The proposed amendment does not introduce new matter into the above-referenced application, nor would it necessitate an additional search. Moreover, the proposed amendment, while broadening the scope of independent claim 1, removes the only bases of rejection that have been presented in the above-referenced application.

In the event that the proposed amendment to independent claim 1 is not entered, entry thereof upon the filing of a Notice of Appeal in the above-referenced application is respectfully requested.

### CONCLUSION

It is respectfully submitted that each of claims 1-25 and 26-63 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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